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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,038	12/09/2003	Lisa C. Tidwell	1DATA.096A	6744
20995 7590 08/17/2007 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER FU, HAO	
			ART UNIT 3609	PAPER NUMBER
			NOTIFICATION DATE 08/17/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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eOAPilot@kmob.com

## Office Action Summary

Application No.

10/731,038

Applicant(s)

TIDWELL ET AL.

Examiner

Hao Fu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12/09/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>04/30/2004</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejection – 35 USC 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 17-18, 20-22 are rejected under 35 U.S.C. 112 first paragraph as failing to comply with the enablement requirement. Specifically, claim 17 and 20 are single mean claim. Claim 18 depends on claim 17, claim 21 and 22 depend on claim 20, but they fail to add any component. Therefore, claim 18, 21 and 22 are single mean claim as well.

### ***Claim Rejection – 35 USC 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claim 1-7 and 12-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Belyi et al. (Pub. No.: US 2005/0080717 A1, hereinafter "Belyi").

As per claim 1, Belyi teaches a method of scoring risk associated with cashing a check, the method comprising:

receiving information about a check presented to an entity for cashing (see paragraph 0011 and 0031);

accessing stored positive pay information about issued checks wherein said positive pay information indicates whether a check issuer is willing to honor the presented check (see paragraph 0032 and 0045); and

determining a risk score associated with cashing the presented check based at least in part on the positive pay information (see paragraph 0013 and 0032).

As per claim 2, Belyi teaches receiving information about the presented check comprises receiving at least one of the set consisting of: bank number, account

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number, check number, check issue date, check amount, payee identifier, and payor identifier (see paragraph 0031 and 0032).

As per claim 3, Belyi teaches receiving information about the presented check comprises receiving information obtained from a magnetic ink character recognition (MICR) line on the check (see paragraph 0030 and 0031, "magnetic check reader").

As per claim 4, Belyi teaches determining a graduated positive pay risk score based at least in part on the stored positive pay information, wherein the positive pay risk score corresponds to a graduated level of confidence that the check will be honored by the check issuer (see paragraph 0013 and paragraph 0031, "transmitted information" mentioned in paragraph 0013 includes "positive pay information" described in paragraph 0031).

As per claim 5, Belyi teaches determining a risk score associated with cashing the presented check comprises determining a transaction risk score that is based at least in part on the positive pay risk score (see paragraph 0013 and paragraph 0031).

As per claim 6, Belyi teaches determining the transaction risk score is further based at least in part additional information associated with cashing the presented check (see paragraph 0032 and 0033).

As per claim 7, Belyi teaches determining the transaction risk score based at least in part on additional information comprises determining the transaction risk score based at least in part on at least one of the set consisting of: additional information about the check, information about a check presenter associated with the check, and information about an entity to which the check is presented for cashing (see paragraph 0033).

As per claim 12, Belyi teaches a computerized system that determines whether to recommend the payment of a second-party check presented to an entity for processing (Belyi teaches an invention of risk assessment system for evaluating financial transaction, which includes second-party check), the system comprising:

- a point of sale device installed at an entity location, wherein the point of sale device is configured to receive data comprising at least one of: an account identifier, a check number, a check issue date, and an amount associated with a second-party check presented for processing, the point of sale device further configured to transfer the data to a check authorization system (see paragraph 0011, "transaction information" include all information suggested in paragraph 0032);

- a computer-accessible-storage medium comprising information that associates a plurality of records in a positive pay database with various issued checks (see paragraph 0067); and

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a computer processor configured to determine a risk score based at least in part on whether the data associated with the second-party check and received by the point of sale device match a record in the positive pay database, the computer processor further configured to determine based at least in part on the risk score whether to recommend to the entity payment of the second-party check (see paragraph 0013, see "risk assessment component").

As per claim 13, Belyi teaches an apparatus that scores risk associated with accepting a check, the apparatus comprising:

a database that stores positive pay information about checks issued by check writers to payees wherein said positive pay information indicates issued checks that check writers are willing to honor (see paragraph 0067 and 0045); and

a computer processor configured to receive input about a check presented to an entity by a check presenter claiming to be a payee (see paragraph 0011, see "point of sale device"), the computer processor further configured to use the input to access positive pay information from the database that is associated with the check (see paragraph 0032), the computer processor further configured to determine a risk score associated with accepting the check based at least in part on the positive pay information (see paragraph 0013 and 0032).

As per claim 14, Belyi teaches the database further stores information about issued checks that check writers are not willing to honor (see paragraph 0023).

As per claim 15, Belyi teaches the computer processor is located at a check authorization system and the database is located at a financial entity external to the check authorization system (see paragraph 0011 and 0067, "external database").

As per claim 16, Belyi teaches computer processor is located at a check authorization system and the database is located at the check authorization system (see paragraph 0011 and 0067, "internal database").

As per claim 17, Belyi teaches an apparatus that scores risk associated with a financial transaction, the apparatus comprising:

a computer processor configured to receive information about a financial transaction associated with an obligation (see paragraph 0011, point of sale devices include computer processor), the computer processor further configured to determine a risk score associated with the financial transaction that is based at least in part on stored information obtained from a payor associated with the obligation (see paragraph 0013, 0031, and 0032).

As per claim 18, Belyi teaches the obligation comprises at least one of the set consisting of: a personal check, corporate check, company insurance refund check, tax refund check, Social Security check, payroll check, other government-issued check, a traveler's check, bank check, official check, convenience check, money order, second-

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party check, third-party check, value-carrying paper, and other type of cashable financial instrument (see paragraph 0005, "promissory payment" is "obligation, and prior art mentions check as promissory payments).

As per claim 19, Belyi teaches a method that scores risk associated with a financial transaction, the method comprising:

- receiving information about a financial transaction associated with a second-party obligation (see paragraph 0031); and

- determining a risk score associated with the financial transaction based at least in part on stored information obtained from a payor associated with the second-party obligation (see paragraph 0013, 0031, and 0032).

As per claim 20, Belyi teaches a computerized device that indicates to an entity whether to accept a second- party check, the device comprising:

- a computer processor configured to receive information about a financial transaction associated with a presentment of a second-party check to an entity (see paragraph 0011),

- the computer processor further configured to determine a risk score associated with the financial transaction based at least in part on positive pay information about the second-party check (see paragraph 0013, 0031, and 0032),

- the computer processor further configured to indicate to the entity whether to accept the second-party check based at least in part on the risk score (see paragraph 0048).

As per claim 21, Belyi teaches the computer processor is further configured to determine whether to guarantee the second-party check based at least in part on the positive pay information (see paragraph 0026).

As per claim 22, Belyi teaches the computer processor is further configured to determine whether to purchase the second-party check based at least in part on the positive pay information (see paragraph 0028).

As per claim 23, Belyi teaches a computerized method that indicates to an entity whether to accept a second- party check, the method comprising:

- receiving information about a financial transaction associated with a presentment of a second party check to an entity (see paragraph 0031);

- determining a risk score associated with the financial transaction based at least in part on positive pay information about the second-party check (see paragraph 0013, 0031, and 0032);

- and indicating to the entity whether to accept the second-party check based at least in part on the risk score (see paragraph 0011 and 0013).

As per claim 24, Belyi teaches determining whether to guarantee the second-party check based at least in part on the risk score (see paragraph 0026).

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As per claim 25, Belyi teaches determining whether to purchase the second-party check based at least in part on the risk score (see paragraph 0028).

Claim 26 is examined under 35 U.S.C. 112 sixth paragraph. As per claim 26, Belyi teaches a system for scoring risk associated with processing a check, the system comprising:

- means for receiving information about a check presented to a check cashing entity for cashing (see paragraph 0011 and 0031, "point of sale devices");

- means for accessing stored positive pay information about issued checks wherein said positive pay information indicates whether a check issuer is willing to honor the presented check (see paragraph 0038 and 0045, "risk system"); and

- means for determining a risk score associated with processing the presented check based at least in part on the positive pay information (see paragraph 0013, 0031, and 0032, "risk assessment component").

### ***Claim Rejections 35 USC 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belyi et al. (Pub. No.: US 2005/0080717A1, hereinafter "Belyi"), in view of Engel et al. (Pub. No.: US 2004/0138975 A1, hereinafter "Engel").

As per claim 8, Belyi teaches a computerized method for determining whether to authorize payment of a second-party check presented to an entity for processing, the method comprising:

- obtaining with a point of sale device installed in an entity location data comprising at least one of: an account identifier, a check number, a check issue date, and an amount associated with a second-party check presented for processing (see paragraph 0011 and 0032);

- transmitting the data to a check authorization system (see paragraph 0011);

- identifying at the check authorization system which of a plurality of positive pay databases is associated with the second-party check (see paragraph 0038);

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determining based at least in part on the risk score whether to authorize payment of the second-party check (see paragraph 0057); and

transmitting a recommendation indicative of the authorization determination to the entity (see paragraph 0057).

Examiner notes however, Belyi fails to teach accessing the identified positive pay database associated with the second-party check and comparing the transmitted data and information stored in the positive pay database; and

determining a risk score based at least in part on the comparison (see paragraph 0033).

Engel et al. teaches accessing the identified positive pay database associated with the second-party check and comparing the transmitted data and information stored in the positive pay database (see paragraph 0031 and 0032); and

determining a risk score based at least in part on the comparison (see paragraph 0033).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Belyi to include the steps of accessing the positive pay database, comparing the information, and determining a risk score based at least in part on the comparison.

One of ordinary skill in the art would have been motivated to modify the reference to provide detail of the scoring process.

As per claim 10, Belyi teaches determining whether to authorize payment of the second-party check comprises determining whether to guarantee the second-party check (see paragraph 0026).

As per claim 11, Belyi teaches determining whether to authorize payment of the second-party check further comprises determining whether to purchase the second-party check from the entity (see paragraph 0028).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belyi et al. (Pub. No.: US 2005/0080717 A1), in view of Engel et al. (Pub. No.: US 2004/0138975 A1, hereinafter "Engel"), and further in view of official notice.

As per claim 9, Belyi teaches obtaining with the point of sale device information (see paragraph 0011); and

transmitting information to the check authorization system (see paragraph (see paragraph 0011).

Examiner notes however, Belyi does not specify the transmitted information as "payee information".

Official notice is taken that obtaining payee information with the point of sale device is old and well known in the art.



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It would have been obvious to one of ordinary skill in the art at the time of invention to modify Belyi to obtain payee information with the point of sale device and transmit payee information to the check authorization system.

One of ordinary skill in the art would have been motivated to modify the reference to provide more information for determining risk score.

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hao Fu whose telephone number is (571) 270-3441.

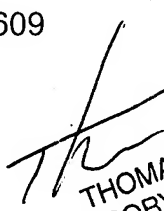
The examiner can normally be reached on Mon-Fri/Mon-Thurs 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hao Fu  
Examiner  
Art Unit 3609

July 07

  
THOMAS A. DIXON  
SUPERVISORY PATENT EXAMINER